THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.22329 of 1998

Dated:13.06.2007

Between

1. The Depot Manager,
APSRTC, Nizamabad and other.

.....Petitioners

and

1.Sri Sk.Moulana and another.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.22329 of 1998

ORDER:

This writ petition is filed by the management of Andhra Pradesh State Road Transport Corporation (for short 'APSTC') being aggrieved by award made in ID No.66 of 1995 dated 3.2.1998 on the file of Labour Court-II, Hyderabad.

It appears that 1st respondent was appointed as a Driver in the petitioner-Andhra Pradesh State Road Transport Corporation at Bus depot, Nizamabad in the year 1983. The bus driven by the 1st respondent met with an accident on 30.8.1992 near Dichpally village causing fatal accident, which resulted in death of a pedestrian aged about 33 years, while he was crossing the road. Therefore, a charge

sheet was issued alleging that the 1st respondent was rash and negligent while driving the bus and was responsible for causing the fatal accident. After conducting a detailed enquiry into the matter, the 1st respondent was removed from service by an order dated 2.4.1993. Aggrieved by the same, the 1st respondent filed an appeal and the same was dismissed on 20.5.1994. Ultimately, the 1st respondent raised a dispute under Section 2-A (2) of the Industrial Disputes Act, 1947 before the Labour Court-II, Hyderabad.

Before the Labour Court, the 1st respondent stated that the enquiry was not properly conducted and none of the witnesses, whose statements purported to have been recorded at the time of the accident spot, were examined during the domestic enquiry and therefore, the findings arrived at by the disciplinary authority are contrary to the evidence on record and the removal order is

liable to be set aside.

Before the Labour Court, the petitioner-APSRTC filed a counter denying the allegations made by 1st respondent and stated that 1st respondent was rash and negligent in driving the bus, which resulted in death of a pedestrian. The Assistant Manager (Traffic) visited the accident spot, obtained statements of the witnesses and also statement of the crew. He had drawn a rough sketch of the accident spot. Later, he gave a report. Basing on the said report, the 1st respondent was issued with a charge sheet and after conducting a detailed enquiry, he was removed from service and no interference is called for by the Labour Court.

The Labour Court after a detailed consideration of the entire material placed before it held that none of the witnesses, on the basis of whose statements, report was submitted by the Assistant Manager (Traffic) and charge sheet was issued, were examined

in the domestic enquiry and thus it came to the conclusion that though the domestic enquiry is valid, the findings recorded by the disciplinary authority are contrary to the evidence on record. It was further held that absolutely there was no evidence to hold that the 1st respondent was guilty of the charge and therefore removal order passed by the petitioner-APSRTC is liable to be set aside and accordingly directed the petitioner-APSRTC to reinstate the 1st respondent-workman into service with continuity of service and 50% of the back wages.

I have given my earnest consideration to the submissions made by learned counsel on either side and perused the impugned award and other material made available on record.

The Labour Court has not committed any error in coming to the conclusion that absolutely there was no evidence to hold that 1st respondent was guilty of charges leveled

against him. Even in the counter filed before the Labour Court, the petitioner-APSRTC has stated that the Assistant Manager (Traffic) visited the accident spot and obtained statements of the witnesses and also statements of the crew and had drawn rough sketch and later submitted report, basing on which, the charge sheet was issued. But, admittedly, persons whose statements were recorded at the spot, were not examined in the domestic enquiry. On the basis of the preliminary enquiry, the 1st respondent was held to be guilty, which is contrary to the evidence on record. The Labour Court having held so, further stated that the 1st respondent-workman had not been served a demand letter as contemplated under Form K-4. Besides that, the Labour Court observed that even after filing the ID except on three or four occasions, the 1st respondent was always not ready, therefore, it denied 50% of the back wages. Be that as it may, since

the 1st respondent- workman has not filed any writ petition, that aspect cannot be dealt with herein. I am of the opinion that the labour Court has not committed any error calling for interference of this Court under Article 226 of the Constitution of India in passing the impugned award. Writ petition is devoid of merits and is liable to be dismissed.

Writ petition is dismissed accordingly. No costs.

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13-06-2007

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